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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 United States,) CR 03-460 RSWL
12)
13 Plaintiff,)
14 vs.) ORDER **DENYING** DEFENDANT
15) ABRAHAM GUTIERREZ'S
16 Abraham Gutierrez,) MOTION FOR REDUCTION OF
17) SENTENCE
18 Defendant.)
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19 On December 11, 2008, Defendant Abraham Gutierrez's
20 Motion for Reduction of Sentence was received by this
21 Court. Plaintiff, United States of America, through its
22 counsel of record, Assistant United States Attorney
23 Michael Terrell, submitted its Position on January 7,
24 2009. Having taken the matter under submission, and
25 having reviewed all papers submitted pertaining to this
26 motion, the Court **NOW FINDS AND RULES AS FOLLOWS:**
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28 Defendant's Motion for Reduction of Sentence

1 pursuant to 18 U.S.C. § 3582(c)(2) is **DENIED**. Under
2 U.S. Sentencing Guidelines Manual § 1B1.10(a)(2)(B),
3 this Court lacks the authority to reduce Defendant's
4 sentence under 18 U.S.C. § 3582(c)(2). Amendment 706 to
5 the United States Sentencing Guidelines does not apply
6 to Defendant's sentence because it has no effect on the
7 offense level applicable to the amount of cocaine base
8 Defendant was convicted for conspiracy to distribute.
9 Defendant was convicted of distributing 4.9 kilograms of
10 cocaine base, which still qualifies as a level 38
11 offense under the amended Guidelines.

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13 **IT IS SO ORDERED.**

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15 **RONALD S.W. LEW**

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HONORABLE RONALD S.W. LEW

17 Senior, U.S. District Court Judge
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19 DATED: February 11, 2009
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